

 <p><b>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF AGING Harrisburg, PA 17101</b></p>	<b>PENNSYLVANIA DEPARTMENT OF AGING</b>	
	<b>1. File Number:</b>  APD # 14-20-01	<b>2. Disposition:</b>  Rescinds APD 13-20-01
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	<b>5. Program Area:</b> Older Adult Daily Living Centers	
<b>6. Origin:</b> Bureau of Quality Assurance		<b>7. Contact:</b> Division of Licensing (717) 214-6716

**AGING PROGRAM DIRECTIVE**

**SUBJECT: OLDER ADULT DAILY LIVING CENTERS DUALY LICENSED AS AN ADULT TRAINING FACILITY**

**TO:** ADULT TRAINING FACILITIES LICENSED BY DPW  
DEPUTY SECRETARY FOR OFFICE OF DEVELOPMENTAL PROGRAMS, DPW  
DEPUTY SECRETARY FOR OFFICE OF LONG-TERM LIVING, DPW  
AREA AGENCIES ON AGING  
LONG-TERM CARE OMBUDSMAN

**FROM:**   
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Brian Duke  
Secretary  
Pennsylvania Department of Aging

**PURPOSE:** The purpose of this Aging Program Directive is to set forth policy and procedure for an Older Adult Daily Living Center (OADLC), licensed by the Department of Aging (PDA), that is also licensed by the Department of Public Welfare (DPW) as an Adult Training Facility (ATF), to request a regulatory waiver to exempt it from the requirement to be inspected by PDA. The Aging Program Directive will also provide additional direction to those ATF's currently in receipt of an inspection waiver as described herein.

**BACKGROUND:** An OADLC is defined as a premises operated for profit or non-profit in which older adult daily living services are simultaneously provided for four or more clients who are not relatives of the operator for part of a 24-hour day. Clients served in an OADLC are predominantly 60 years of age or

older, or who are under 60 years of age but who have a dementia-related disease, such as Alzheimer's disease, as a primary diagnosis.

ATFs are defined as a building or portion of a building in which services are provided to four or more individuals, who are 59 years of age or younger and who do not have a dementia-related disease as a primary diagnosis, for part of a 24-hour day, excluding care provided by relatives.

ATFs are licensed by DPW under 55 Pa. Code Chapter 2380 regulations. If an ATF serves four or more clients age 60 and over it is required to also be licensed as an OADLC by PDA per 6 Pa. Code Chapter 11 regulations. These dually-licensed centers are inspected separately by both DPW and PDA licensing staff at least once per year.

At present, there are over 90 dually-licensed ATF/OADLCs in Pennsylvania, all of which are subject to multiple licensure inspections. PDA and DPW staff has discussed the duplicative nature of these inspections in an attempt to find a solution that ensures the health and safety of clients, reduces the number of onsite inspections for providers, and improves operational efficiency for the Commonwealth. PDA, in consultation with DPW has developed a solution that will meet these goals.

## **SECTION 1**

### For ATFs Requesting an Inspection Waiver

#### **PROCEDURE:**

An ATF that primarily serves individuals who do not have a dementia-related disease as a primary diagnosis may apply for a waiver of 6 Pa Code §§ 11.241 and 11.242 to exempt it from the requirement to be inspected by PDA.

If approved by the Department of Aging, this would waive the requirement that the ATF be inspected by PDA. The waiver would be subject to annual review by PDA to ensure the center is still licensed by DPW as an ATF and that there are no circumstances that would warrant revocation of the waiver or other action by PDA. Onsite regulatory oversight by the Commonwealth would be maintained by DPW through their inspections of ATFs.

ATFs that currently do not serve four or more individuals 60 years of age or older but do so after the publication of this Aging Program Directive are required to be licensed as an OADLC. However, those ATFs may also request this waiver after they have been inspected at least once by PDA, receiving a Regular License.

In order for ATFs that receive this waiver from PDA to maintain and have their OADLC license issued, the ATF must still submit the application forms and licensure fee on an annual basis. In addition, these centers must also take into consideration any additional compliance requirements through their funding systems (for example the Veteran's Administration or the County Mental Health/Mental Retardation Agency, etc.).

IMPORTANT: This Aging Program Directive does not apply to dually-licensed centers that serve clients the majority of whom are predominantly 60 years of age or older, or who are under 60 years of age but have a dementia-related disease, as a primary diagnosis.

**NEXT STEPS:** Dually-licensed ATFs interested in requesting this regulatory waiver must complete a waiver request form (Attachment 1) and submit the original document along with a cover letter signed by an authorized representative of the center's legal entity to:

Pennsylvania Department of Aging  
Division of Licensing  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101

ATFs requesting a waiver will receive a written response from PDA either approving or denying the regulatory waiver request. Please contact the Division of Licensing at (717) 214-6716 if you have any questions.

## **SECTION 2** For ATFs with an Inspection Waiver

**POLICY:** It is the policy of the Department of Aging that all OADLCs comply with Title 6, Chapter 11 to assure quality of care. In order to assure that this policy is met by those OADLCs in receipt of an inspection waiver, the Department sets forth the following:

1. OADLCs with an inspection waiver must maintain compliance with Title 6, Chapter 11 regulations. While these centers are dually-licensed as an ATF and inspected by the Department of Public Welfare, there remain several regulatory requirements that are unique to Chapter 11. These requirements are detailed on Attachment 3.
2. The Department of Aging reserves the right to inspect all licensed OADLCs, including those with an inspection waiver. This includes, but is not limited to, complaint and unusual incident investigations, and inspections to change the center's capacity.
3. OADLCs with an inspection waiver must develop or maintain an internal Quality Assurance process to ensure compliance with those areas of Title 6, Chapter 11 not monitored by the Department of Public Welfare.
4. OADLCs with an inspection waiver shall submit an attestation letter with their annual licensure renewal paperwork affirming their compliance with Title 6, Chapter 11 regulations. The attestation letter template is found in Attachment 2.
5. Inspection waivers can be revoked in certain circumstances. As previously stated in APD 13-20-01, the inspection waiver is revoked

if the ATF loses its DPW-issued ATF license. The inspection waiver would also be void if any of the conditions of regulation 11.268(b) are met (change in ownership of the legal entity, name or structure, or change in location of the center). The inspection waiver is also void if after inspection or investigation, the Department determines there is a situation in the OADLC that jeopardizes the health or safety of clients.

**Procedure:** Quality Assurance Plan & Attestation Statement

OADLCs with an inspection waiver are to develop or maintain an existing internal quality assurance plan that assures compliance with the Title 6, Chapter 11 regulations (Attachment 3) that are not monitored by DPW. The quality assurance plan is to assist the OADLC in monitoring its own compliance with the Chapter 11-unique regulatory areas.

The Quality Assurance plan should describe the OADLC's process to periodically review the unique Chapter 11 regulatory areas. It should also explain how the plan's findings are documented. For example, the periodic reviews could entail a review of a sampling of client files to ensure required quarterly fire safety training was conducted and documented.

Finally, the Quality Assurance plan must contain a checklist or other means of documentation to ensure the unique Chapter 11 areas are monitored. The Department has prepared a sample checklist of the unique Chapter 11 regulatory areas. This checklist can be found in Attachment 4.

Centers with an inspection waiver will be required to submit a copy of their Quality Assurance plan to the Division of Licensing no later than one year following the issuance of this Aging Program Directive. The Division of Licensing reserves the right to periodically review the results of self-monitoring inspections that are part of the center's Quality Assurance plan.

Having a strong quality assurance plan will enable an OADLC with an inspection waiver to confidently complete and submit an attestation letter (Attachment 2) with the annual license renewal paperwork.

Sixty to ninety days prior to the expiration of the current license, the OADLC with an inspection waiver will be contacted by the PDA regional licensing representative to inform the center that its license is due for renewal. The OADLC is to submit by the date specified to the Department the completed licensure renewal paperwork, licensure fee, and if the center intends to continue to receive the inspection waiver, the completed attestation letter. During the first year after issuance of this Aging

Program Director, the OADLC is to also submit a copy of its quality assurance plan.

#### PDA Inspections of OADLCs with an Inspection Waiver

When PDA licensing representatives conduct an onsite inspection for any reason, such as a complaint investigation or change in capacity, they have the discretion to review a sampling of the Chapter 11-unique regulatory items while at the center.

If non-compliance areas are noted during the course of an investigation, inspection, or abbreviated review of Chapter 11 items, the PDA licensing inspector will notify the OADLC program director that they will conduct a full inspection of the center. If client health or safety violations are noted, the full inspection will be initiated at that time. Otherwise the full inspection will be scheduled for a future date.

Violations noted during the abbreviated or full inspection will be noted on a Licensing Inspection Summary. The OADLC will complete a Plan of Correction, as is the normal process. If the Plan of Correction is accepted by the Department of Aging, the OADLC will remain on the inspection waiver. If the OADLC cannot produce an acceptable plan of correction, the inspection waiver is void.

#### Revocation of an Inspection Waiver

The inspection waiver is revoked if the ATF loses its DPW-issued ATF license or if any of the conditions of regulation 11.268(b) are met (change in ownership of the legal entity, name or structure, or change in location of the center). The inspection waiver is also void if after inspection or investigation, the Department determines there is a situation in the OADLC that jeopardizes the health or safety of clients.

The Department will notify the legal entity in writing of the decision to revoke a regulatory waiver. The notification letter will explain how an inspection waiver holder can appeal a revoked waiver and the appeal process, if applicable.

#### Attachments:

1. Waiver Request Template
2. Attestation Letter
3. QA Plan Chapter 11 Regulation Checklist
4. Sample QA Review Checklist